



APPLICATION ACCEPTED: March 16, 2006  
APPLICATION AMENDED: June 22, 2006  
APPLICATION AMENDED: December 21, 2006  
PLANNING COMMISSION PUBLIC HEARING #1: March 14, 2007  
PLANNING COMMISSION PUBLIC HEARING #2: June 12, 2008  
BOARD OF SUPERVISORS: Not yet scheduled

# County of Fairfax, Virginia

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May 29, 2008

## STAFF REPORT ADDENDUM II

### APPLICATION RZ 2006-PR-013 and SE 2006-PR-005

#### PROVIDENCE DISTRICT

**APPLICANT:** Washington Property Company, LLC

**PRESENT ZONING:** C-3, C-6, C-8, HC

**REQUESTED ZONING:** C-6, HC

**PARCEL:** 48-4 ((1)) 12

**ACREAGE:** 13.52 Acres (RZ Area)  
3.68 Acres (SE Area)

**FAR:** 0.036 (RZ Area)  
0.13 (SE Area)

**OPEN SPACE:** 81% (RZ Area)  
30% (SE Area)

**PLAN MAP:** Retail/Other and Public Park

**SE CATEGORY:** Category 5: Drive-in Financial Institution  
Category 5: Drive-through Pharmacy

**RZ PROPOSAL:** The applicant seeks to rezone 13.52 acres from C-3, C-6, C-8 and HC to C-6 and HC to permit a drive-in financial institution, a drive-through pharmacy, an eating establishment, and retail uses.

O:\SWILLI\IRZ\RZ 2006-PR-013- SE 2006-PR-005 Washington Properties\Addendum\Addendum II Cover.doc

**SE PROPOSAL:**

The applicant seeks approval of a special exception to permit a drive-in financial institution and a drive through pharmacy on 3.68 acre portion of the subject property

**STAFF RECOMMENDATIONS:**

Staff recommends approval of RZ 2006-PR-013, subject to the execution of proffers consistent with those contained in Attachment 1 of this addendum.

Staff recommends approval of SE 2006-PR-005, subject to the proposed development conditions contained in Attachment 2 of this addendum.

Staff recommends approval of the waiver of the service drive requirement along the Lee Highway and Arlington Boulevard frontages of the site.

Staff recommends approval of the waiver of the transitional screening and barrier requirements along the perimeters adjacent to residential use in favor of the existing vegetation.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Rezoning Application

**RZ 2006-PR-013**

# Special Exception

**SE 2006-PR-005**

**Applicant:** WASHINGTON PROPERTY COMPANY, LLC  
**Accepted:** 03/16/2006- AMENDED 06/22/2006 12/21/2006

**Applicant:** WASHINGTON PROPERTY COMPANY, LLC  
**Accepted:** 03/16/2006- AMENDED 06/22/2006 12/21/2006

**Proposed:** COMMERCIAL  
**Area:** 13.52 AC OF LAND; DISTRICT - PROVIDENCE

**Proposed:** DRIVE-IN FINANCIAL INSTITUTION AND A DRIVE-THROUGH PHARMACY  
**Area:** 3.68 AC OF LAND; DISTRICT - PROVIDENCE

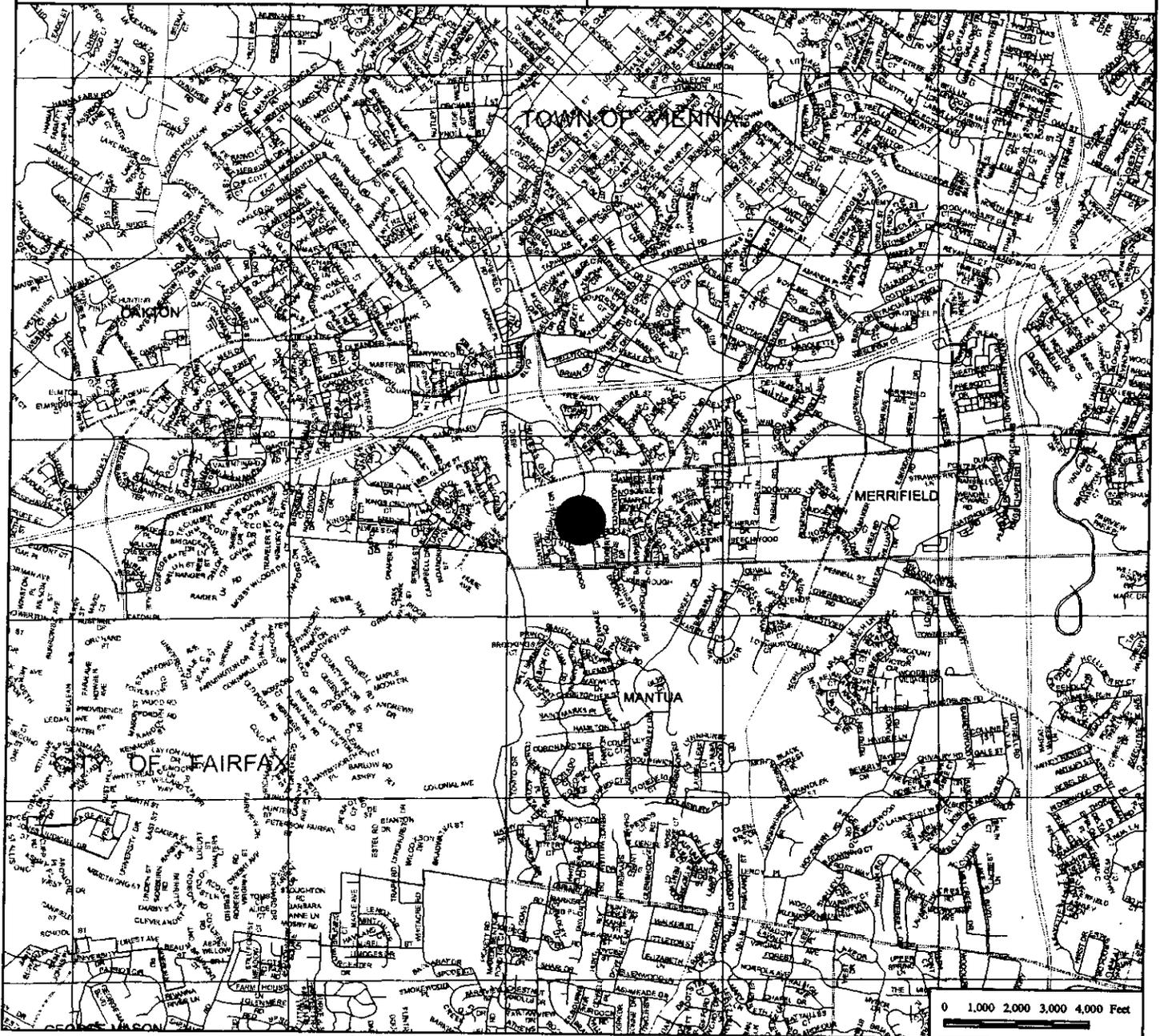
**Zoning Dist Sect:**  
**Located:** SOUTHWEST QUADRANT OF THE INTERSECTION OF LEE HIGHWAY AND NUTLEY STREET AND NORTHWEST QUADRANT OF THE INTERSECTION OF ARLINGTON BOULEVARD AND NUTLEY STREET

**Zoning Dist Sect:** 04-0604  
**Art 9 Group and Use:** 5-06 5-36  
**Located:** 9200 ARLINGTON BOULEVARD

**Zoning:** FROM C- 8, C- 3 AND C- 6 TO C- 6

**Zoning:** C- 6  
**Plan Area:** 2,  
**Overlay Dist:**  
**Map Ref Num:** 048-4- /01/ /0012 Pt.

**Overlay Dist:** HC  
**Map Ref Num:** 048-4- /01/ /0012



# Rezoning Application

**RZ 2006-PR-013**

# Special Exception

**SE 2006-PR-005**

Applicant: WASHINGTON PROPERTY COMPANY, LLC  
 Accepted: 03/16/2006- AMENDED 06/22/2006 12/21/2006

Proposed: COMMERCIAL  
 Area: 13.52 AC OF LAND; DISTRICT - PROVIDENCE

Zoning Dist Sect:  
 Located: SOUTHWEST QUADRANT OF THE INTERSECTION OF LEE HIGHWAY AND NUTLEY STREET AND NORTHWEST QUADRANT OF THE INTERSECTION OF ARLINGTON BOULEVARD AND NUTLEY STREET

Zoning: FROM C- 8, C- 3 AND C- 6 TO C- 6

Overlay Dist: HC  
 Map Ref Num: 048-4- /01/ /0012

Applicant: WASHINGTON PROPERTY COMPANY, LLC  
 Accepted: 03/16/2006- AMENDED 06/22/2006 12/21/2006

Proposed: DRIVE-IN FINANCIAL INSTITUTION AND A DRIVE-THROUGH PHARMACY

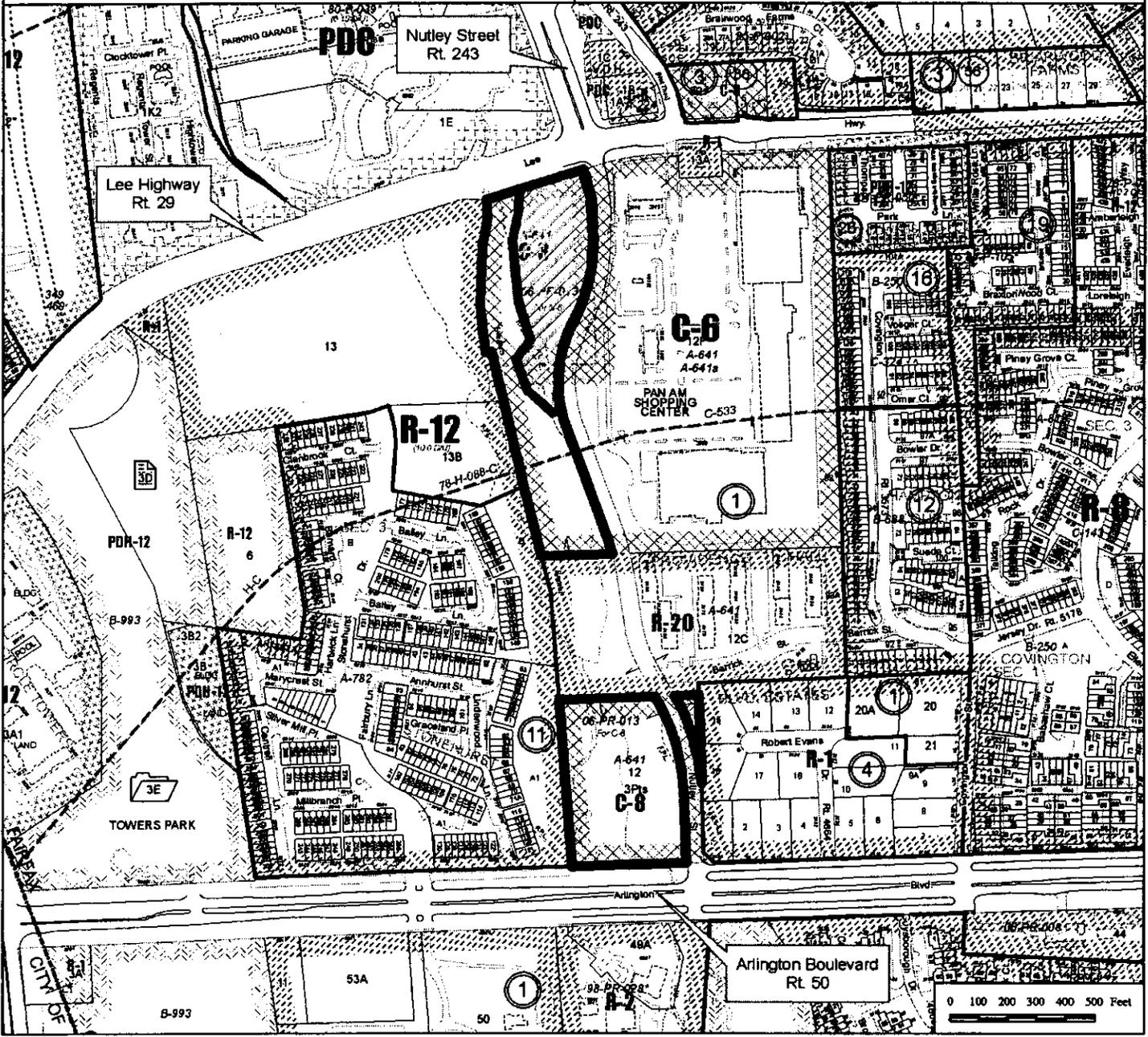
Area: 3.68 AC OF LAND; DISTRICT - PROVIDENCE

Zoning Dist Sect: 04-0604  
 Art 9 Group and Use: 5-06 5-36

Located: 9200 ARLINGTON BOULEVARD

Zoning: C- 6  
 Plan Area: 2,  
 Overlay Dist:  
 Map Ref Num: 048-4- /01/ /0012 Pt.

 = Area of Special Exception



# LEE HIGHWAY & NUTLEY STREET

## SPECIAL EXCEPTION/

### GENERALIZED DEVELOPMENT PLAN

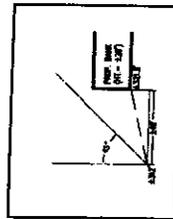
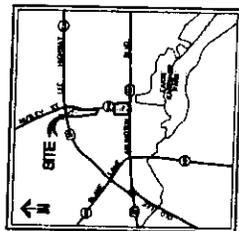
SE 2006-PR-005      RZ 2006-PR-013

#### GENERAL NOTES:

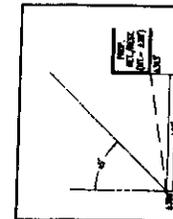
- OWNER/APPLICANT: NUTLEY STREET, LLC 2022 NUTLEY STREET, FAIRFAX VA, 22031
- THE PROPERTY SHOWN ON THIS PLAN IS LOCATED ON THE PART 2 OF THE MAP NAMED 04-1-00-001-001 PARCEL 1, AND IS PART OF THE MAP NAMED 04-1-00-001-001 PARCEL 1. THE TOTAL SITE AREA IS 2.8467 AC. THE TOTAL SITE AREA IS 2.8467 AC.
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#### SHEET INDEX

- COVER SHEET
- OVERALL SITE MAP
- GRID/USE PLAN
- EXISTING VEGETATION MAP
- CONCEPTUAL LANDSCAPE PLAN
- PRELIMINARY SWM & BMP COMPS. PLAN
- PRELIMINARY OUTFALL ANALYSIS
- NUTLEY STREET DISTANCE PROFILE & DETAIL



LEE HIGHWAY - RTE 29  
ANGLE OF BULK PLANE DETAIL  
(SCALE 1"=40')



NUTLEY STREET  
ANGLE OF BULK PLANE DETAIL  
(SCALE 1"=40')

#### COVER SHEET

DEVELOPMENT BY  
**WASHINGTON PROPERTY COMPANY**  
10100 WOODBURN DRIVE, SUITE 100  
FAIRFAX, VA 22031

LEE HIGHWAY & NUTLEY ST.  
PROVIDENCE DISTRICT  
FAIRFAX COUNTY, VIRGINIA

WALTER L. PHILLIPS  
INCORPORATED  
CIVIL ENGINEERS, LAND SURVEYORS, PLANNERS, LANDSCAPE ARCHITECTS  
207 PARK AVENUE, FALLS CHURCH, VIRGINIA 22084  
(703) 832-9863 FAX (703) 832-9871



#### ZONING TABULATION

EXISTING ZONE: C-4 OFFICE DISTRICT AND C-4 COMMUNITY OFFICE  
COMMERCIAL DISTRICT AND C-1 BUSINESS COMMERCIAL DISTRICT  
PROPOSED ZONE: C-4 COMMUNITY RETAIL COMMERCIAL DISTRICT

BASED ON LIMITS OF SPECIAL EXCEPTION	COMMENTS
MIN. LOT AREA: 10,000 SQ FT	214,100 SQ FT / 13.4 AC
MIN. LOT WIDTH: 100 FT	1200 FT
MIN. LOT DEPTH: 40 FT	438 FT
YARD REQUIREMENTS: FRONT: 40' (40' MIN); SIDE: 10'; REAR: 10'	440 FT
MAXIMUM FLOOR AREA: 100,000 SQ FT	812 FT
MINIMUM SETBACK: 10 FT	428 FT
MINIMUM HEIGHT: 10 FT	10 FT
MINIMUM OPEN SPACE: 10%	2,847 SQ FT

#### PARKING TABULATION

PARKING REQUIRED:  
AREA OF 3' X 24' X 8' CHIPPING GRADE @ 4.1 SQ FT/100 SF  
= 80 SPACES  
4,100 SQ FT OF ASPHALT (16' SLABS X 12 EMPLOYEES)  
= 10 SPACES  
= 90 SPACES

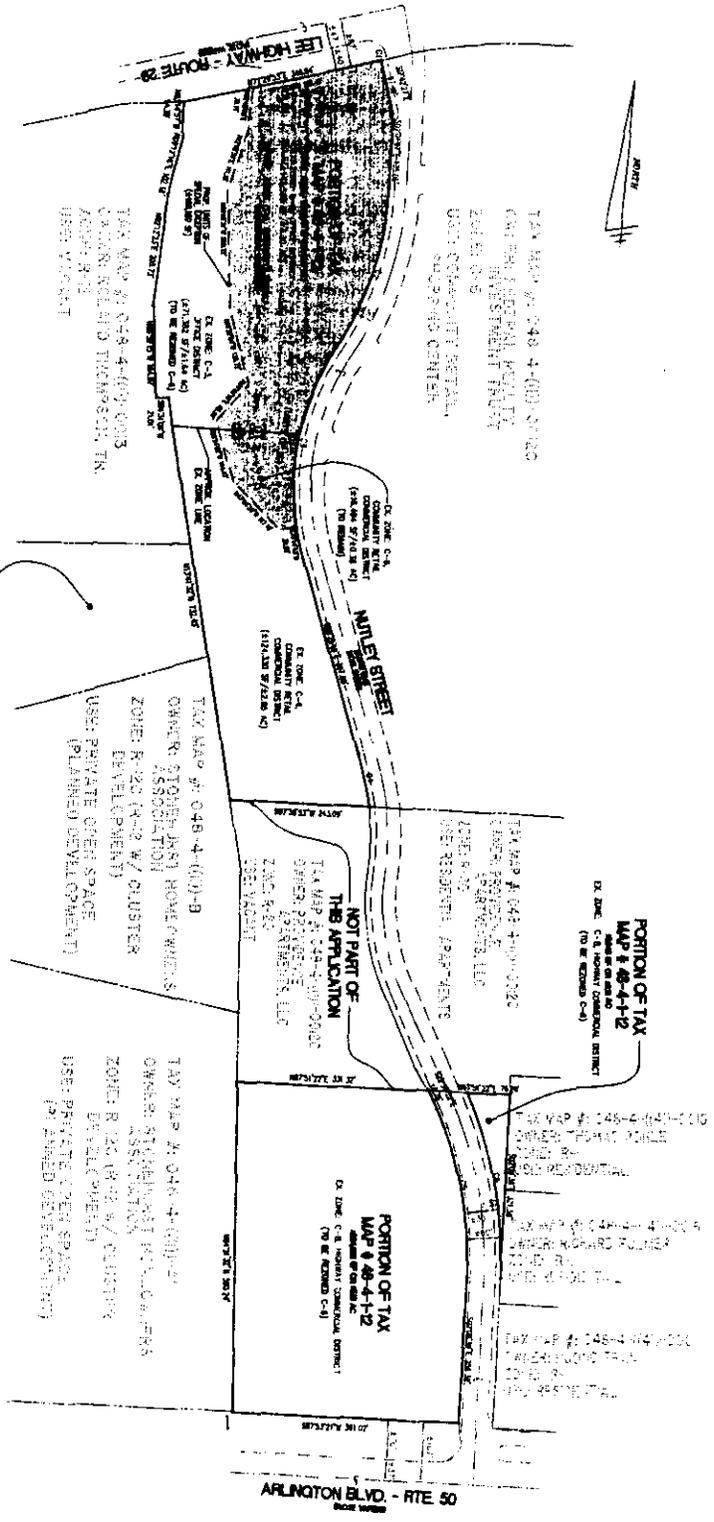
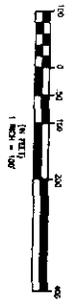
TOTAL REQUIRED FOR SPACES  
TOTAL PROVIDED FOR SPACES (INCL. 8 FC)  
NET EXCESS DEMAND: PARKING TABULATION IS BALD  
ON 1000' X 1000' GRID (NET)

#### AREA TABULATION

ORIG. SITE AREA: 214,100 SQ FT / 13.4 AC  
PROPOSED LOTS: 214,100 SQ FT / 13.4 AC

**ORIENT TABLE**

DATE	APPROVED	BY	REVISION
1	1/28/88	WLP	1
2	2/15/88	WLP	2
3	3/15/88	WLP	3
4	4/15/88	WLP	4
5	5/15/88	WLP	5
6	6/15/88	WLP	6
7	7/15/88	WLP	7
8	8/15/88	WLP	8
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11	11/15/88	WLP	11
12	12/15/88	WLP	12

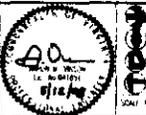


**OVERALL SITE MAP**

**LEE HIGHWAY & NUTLEY ST.**  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

REVISION APPROVED BY

NO.	DESCRIPTION	DATE	BY

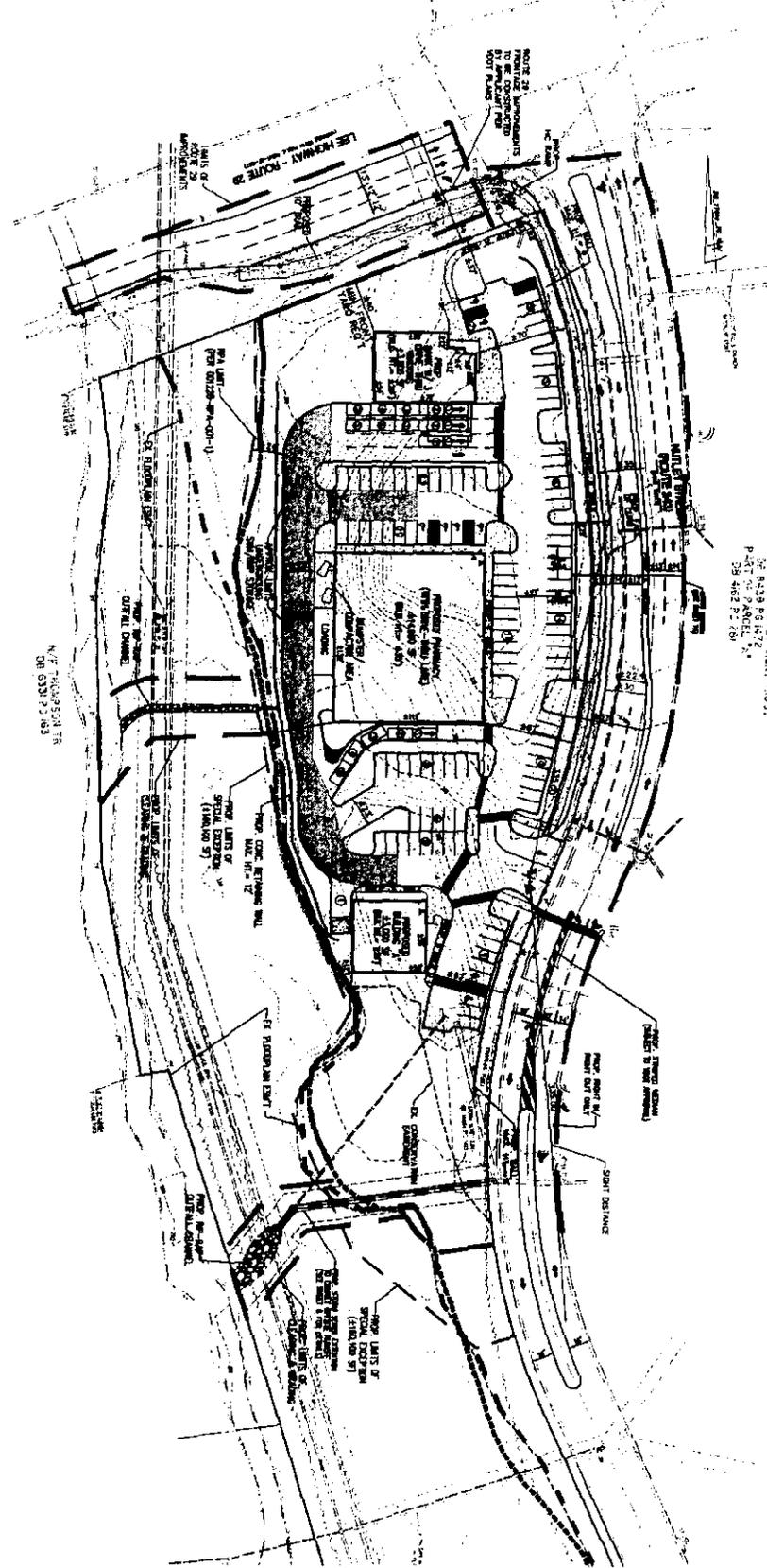


**WALTER L. PHILLIPS**  
 INCORPORATED  
 CIVIL ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS  
 327 PARK AVENUE FALLS CHURCH, VIRGINIA 22048  
 (703) 522-4900 FAX (703) 522-1302

DATE: 1/28/88



- LINE TYPE LEGEND**
- EX. ALDORUM LAM ELEMENT
  - EX. CONVENTION ELEMENT
  - LOTS OF 200
  - LOTS OF SPECIAL EXCEPTION
  - LOTS OF 20' WIDE & 5' SHADOW



N. F. FIELDS & SONS, INC. / INVESTMENT TRUST  
 1000 N. PARK AVENUE  
 SUITE 200  
 FALLS CHURCH, VA 22046

N. F. FIELDS & SONS, INC.  
 1000 N. PARK AVENUE  
 SUITE 200  
 FALLS CHURCH, VA 22046



**GENERALIZED DEVELOPMENT PLAN/SPECIAL EXCEPTION PLAT**

**LEE HIGHWAY & NUTLEY ST.**  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

REVISION APPROVED BY

NO.	DESCRIPTION	DATE	BY	APPROVED	S.S.



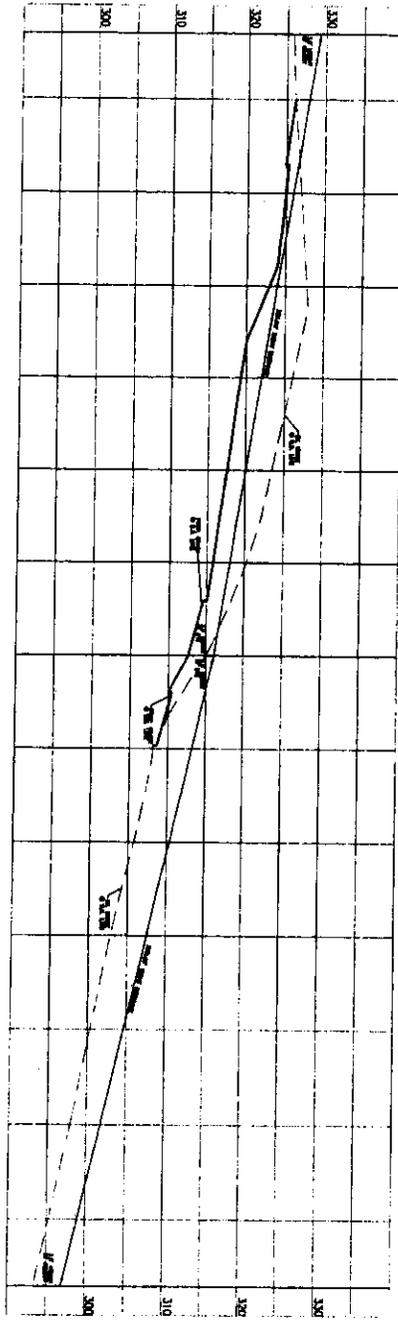
**WALTER L. PHILLIPS**  
 INCORPORATED  
 CIVIL ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS  
 207 PARK AVENUE FALLS CHURCH VIRGINIA 22046  
 (703) 862-0600 FAX (703) 862-0601  
 LICENSE NO. 10000 BY 10/26 BY 2/2001



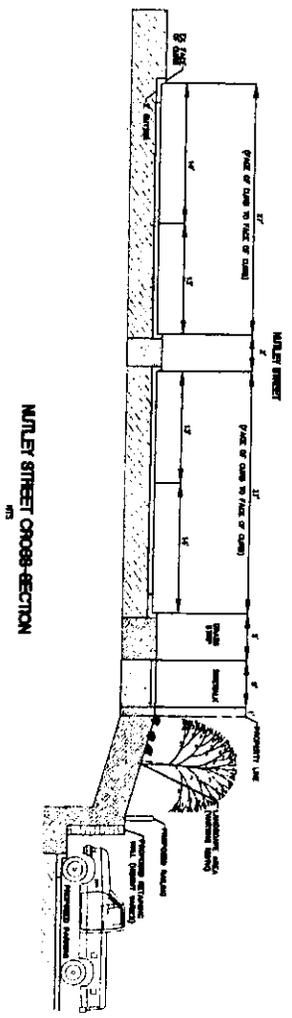








NUTLEY STREET ENTRANCE SIGHT DISTANCE  
 PROFILE VIEW  
 VERT. SCALE 1"=4'



NUTLEY STREET CROSS-SECTION



NUTLEY SITE DISTANCE PROFILE & DETAIL

LEE HIGHWAY & NUTLEY ST.  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

REVISION APPROVED BY				
NO.	DESCRIPTION	DATE	BY	APPROVED



**WALTER L. PHILLIPS**  
 INCORPORATED  
 CIVIL ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS  
 207 PARK AVENUE FALLS CHURCH, VIRGINIA 22046  
 (703) 622-6825 FAX (703) 622-1001  
 WWW.WLP.COM

## BACKGROUND

The applicant, Washington Property Company, LLC, seeks to rezone 13.52 acres from C-3 (Office District), C-6 (Community Retail Commercial District), C-8 (Highway Commercial District), and HC (Highway Corridor Overlay District) to C-6 and HC in order to develop the site with a drive-in financial institution, a drive-through pharmacy, an eating establishment, and retail uses. The Special Exception request is to establish the drive-in financial institution and drive-through pharmacy proposed as a part of these applications. While the entire parcel totals 13.52 acres, development will be limited to a 3.68-acre portion of the site which is also the area to be covered by the special exception, located in the northeast corner of the parcel at the intersection of Nutley Street and Route 29/Lee Highway. Under the applicant's proposal, this portion of the subject property will be developed with three (3) free-standing buildings: a 3,800-square-foot drive-in financial institution, a 14,600-square-foot drive-through pharmacy, and a 3,000-square-foot building, identified as Building A, designated for an eating establishment, fast food restaurant or quick-service food store, as well as other uses permitted in the C-6 District which have been identified in the proposed proffers. The total floor area ratio (FAR) proposed under this application is 0.13 for the SE area of the subject property and 0.04 for the entire subject property. The remaining 9.84 acres of the subject property located outside of the Special Exception area, will remain as undisturbed open space.

In addition, the applicant is proposing the following waivers as a part of these applications:

- Waiver of the service drive requirement along Route 29/Lee Highway; and
- Waiver of the transitional screening and barrier requirements along the western property line in favor of the existing vegetation in the area

During the staff review of the application, it was noted that a large portion of the subject property was located within a Resource Protection Area (RPA) defined primarily by the extent of the 100-year floodplain of Hunter's Branch. Concurrent with this application, the applicant prepared a boundary delineation study that proposed to reduce the limits of both the RPA and the 100-year floodplain on the subject property to a smaller area. This study was reviewed by the Department of Public Works and Environmental Services (DPWES), and subsequently approved on October 26, 2006 (floodplain study) and November 1, 2006 (RPA study). During the review of these studies, DPWES staff became aware of an area of fill on the site, but assumed that it had been placed there with the required permits and approvals.

Based upon the approvals by DPWES of the floodplain and RPA redelineation studies, prior concerns regarding the impact of the proposed site design on the floodplain area and RPA were addressed. On March 1, 2007, the Staff Report for RZ 2006-PR-013/SE 2006-PR-005 was published. In this report, staff discussed that while the developable portion of the site could support a number of by-right uses beyond the requested drive-in financial institution and drive-through

pharmacy, staff believed that the additional proposed uses in Buildings A and B would increase the intensity of the proposed development in close proximity to an environmentally sensitive area. To address these concerns, the applicant proposed proffer language limiting both the types of uses and the number of tenants allowed in Buildings A and B, located in the southern portion of the SE area. Therefore, staff concluded that the proposal was in harmony with the intent of the Comprehensive Plan and met all applicable provisions of the Zoning Ordinance.

A Planning Commission public hearing for RZ 2006-PR-013 and SE 2006-005 was held on March 14, 2007. Prior to this hearing, DPWES staff researched the history of the subject property and met with the applicant to determine the origin and any authorization or approvals for the fill area located on the site. In order to verify the origin of the fill area on the site, staff reviewed aerial photography to establish a timeframe as to when the fill was placed on the site. County records show that work on the site commenced with the construction of the Pan Am Shopping Center in the mid-1970s, and that the area associated with the subject property was cleared at some point in the early 1980s. A review of the approved site plan for the Pan Am Shopping Center confirmed that some construction activities were authorized in the area at the time, specifically the construction of temporary sediment basins in the vicinity of the fill area on the subject property, and documentation showed that these areas were to be restored and replanted following construction of the shopping center. As such, there was no information in the existing site plan documentation that showed a fill area authorized for this portion of the site. Absent any documentation permitting its location on the subject property, staff concluded that the fill was not authorized at the time of its placement on the site.

Based on this information, DPWES staff determined that the approval of the RPA and floodplain studies was in error, and letters of revocation were sent to the applicant on March 27, and March 30, 2007. As a result of this action, the floodplain and RPA limits on the subject property were returned to being those shown on the Board adopted United States Geological Survey (USGS) maps, and the Board-adopted RPA maps at that time. Shortly thereafter, the Zoning Enforcement Branch (ZEB) of the Department of Planning and Zoning (DPZ) also issued a Notice of Violation, dated April 18, 2007, to the property owner concerning the limitations on the addition of soil in a floodplain without the requisite approvals. The applicant appealed this Notice of Violation by letter dated April 18, 2007. On May 17, 2007 a Staff Report Addendum was published with a recommendation of denial for RZ 2006-PR-013 and SE 2006-PR-005 as a result of the floodplain issue identified by DPWES and the fact that the combined GDP/SE Plat proposed buildings within the floodplain area as shown on the Board adopted United States Geological Survey (USGS) maps, and the Board-adopted RPA maps at that time. On May 31, 2007, at the applicant's request, the Planning Commission voted to defer the subject applications, pending resolution of the appeal.

The applicant's appeal of the Notice of Violation was accepted and was assigned a Board of Zoning Appeals (BZA) public hearing date of July 17, 2007. The BZA

heard the case and ruled that illegal fill had not occurred. The County requested a reconsideration by the BZA, and the BZA once again made a determination that illegal fill had not occurred (*See Attachment 5*). The County filed an appeal to the Circuit Court, but that appeal was subsequently withdrawn. Following discussions with County staff in order to resolve the issue, the applicant agreed to conduct a revised floodplain delineation and provide a conservation easement. The applicant conducted a revised floodplain study and a floodplain easement and conversation easement were recorded for the site in February 2008, and are now shown on the GDP/SE Plat. This addendum discusses the revisions to the proposed application based on the revised floodplain delineation and conservation easement.

A reduction of the revised proposed combined General Development Plan/Special Exception Plat (GDP/SE Plat) has been included at the front of this staff report addendum.

## ANALYSIS

Based on the revised floodplain delineation and conservation easement, which are now shown on the combined GDP/SE Plat as revised through May 12, 2008, the proposed site layout has been revised. The following features of note:

*Proposed Buildings:* The application had previously proposed four free standing buildings with multiple uses: 3,800 square foot (SF) financial institution with three drive-through windows; 14,600 SF pharmacy with one drive-through window; 3,000 SF retail/restaurant use; and 2,400 SF retail/restaurant use with an FAR of 0.15 on the SE portion of the site. The revised GDP/SE Plat now proposes three separate free standing uses: 3,800 SF financial institution with three drive-through windows; 14,600 SF pharmacy with one-drive through window; and 3,000 SF retail/restaurant use with an FAR of 0.13 on the SE portion of the site. The 2,400 SF retail/restaurant use (Building B) is no longer proposed with this application.

*Ingress/Egress:* The location of the one entrance into the site provided via Nutley Street remains as previously proposed; however, the right-out only point of exit further down Nutley Street from the main entrance has been removed. With the elimination of the right-out only point of exit, the GDP/SE Plat now shows striping at the access point to the site to coordinate internal vehicular circulation on the subject site.

*Road Improvements:* The GDP/SE Plat continues to propose improvements to Nutley Street along the subject site's frontage, including: the signalization, if warranted, of the new intersection created between the proposed development and Pan Am Shopping Center; the dedication of additional right-of-way and construction of improvements along the Nutley Street and Lee Highway frontages of the SE area; and construction of a ten-foot wide asphalt trail along Lee Highway. In discussions with staff, the applicant has indicated that traffic analyses that have been conducted at the proposed intersection between the proposed development

and Pan Am Shopping Center indicate that a signal will be warranted at that location. The proposed entrance has been configured to line up with the existing entrance to the Pan Am Shopping Center located on across Nutley Street. The GDP/SE Plat now depicts an extended striped median along Nutley Street which will provide an extended left turn lane to the subject property along northbound Nutley Street. This will provide more vehicle storage capacity in the left turn lane into the subject site and provide for improved traffic flow along northbound Nutley Street. The striped median will connect to the existing raised median along Nutley Street and restrict the southernmost access point to the Pan Am shopping center across the street to right in/right out only to help reduce turning conflicts along Nutley Street.

*Parking:* The proposed amount of surface parking has been reduced with the elimination of one free standing building. The GDP/SE Plat now shows a total of 108 parking spaces being provided on the site, which is a reduction of 13 spaces from the 121 spaces previously proposed. The majority of these spaces are located along the site frontage on Nutley Street, and along the front entrances of each building. Additional parking is being provided to the north and south of the pharmacy, in two separate parking areas. There is also one loading space area proposed at the rear of the pharmacy building.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

The applicant requests to rezone 13.52 acres from C-3, C-6, C-8 and HC, to C-6 and HC in order to develop a 3.68 acre portion of the subject property with commercial uses, including a drive-in financial institution, a drive-through pharmacy, restaurant, and retail uses. The total floor area ratio (FAR) proposed under this application is 0.13 for the 3.68 acre SE area of the subject property and 0.04 for the entire 13.52 acre subject property. The remaining 9.84 acres of the subject property outside of the SE area will remain as undisturbed open space.

The applicant has conducted a revised floodplain delineation and provided a conservation easement, which are now shown on the GDP/SE Plat. The floodplain easement and conversation easement were recorded for the site in February 2008. The combined GDP/SE Plat no longer proposes any buildings within the approved floodplain area and one of the previously proposed buildings has been removed from the proposal, which in turn reduces the intensity of the proposed development on the subject property.

As previously noted, the application proposes improvements to Nutley Street along the subject site's frontage, including the signalization, if warranted, of the new intersection created between the proposed development and Pan Am Shopping Center. In discussions with staff, the applicant has indicated that traffic analyses that have been conducted at the proposed intersection between the proposed

development and Pan Am Shopping Center indicate that a signal will be warranted at that location. The GDP/SE Plat depicts an extended striped median along Nutley Street which will provide more vehicle storage capacity in the left turn lane into the subject site and provide for improved traffic flow along northbound Nutley Street, and the striped median will connect to the existing raised median along Nutley Street and restrict the southernmost access point to the Pan Am shopping center across the street to right in/right out only to help reduce turning conflicts along Nutley Street.

Staff believes that with the changes shown on the GDP/SE Plat, proposed proffers and development conditions that the proposal is in harmony with the intent of the Comprehensive Plan and meets all applicable provisions of the Zoning Ordinance.

### Recommendations

Staff recommends approval of RZ 2006-PR-013, subject to the execution of proffers consistent with those contained in Attachment 1 of this addendum.

Staff recommends approval of SE 2006-PR-005, subject to the proposed development conditions contained in Attachment 2 of this addendum.

Staff recommends approval of the waiver of the service drive requirement along the Lee Highway and Arlington Boulevard frontages of the site.

Staff recommends approval of the modification of the transitional screening and a waiver of the barrier requirements along the perimeters adjacent to residential use in favor of the existing vegetation.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

### ATTACHMENTS

1. Draft Proffers
2. Development Conditions
3. Affidavit (RZ 2006-PR-013 & SE 2006-PR-005)
4. Revised Statement of Justification
5. Board of Zoning Appeals Clerk's Letters (Appeal Application A 2007-PR-013)
6. Land Use & Environmental Analysis
7. Stormwater Management/Best Management Practices Analysis

**RZ 2006-PR-013**  
**WASHINGTON PROPERTY COMPANY, LLC**  
**PROFFER**

May 23, 2008

Pursuant to §15.1-2203(A) of the Code of Virginia (1950 as amended) and §18-203 of the Zoning Ordinance of Fairfax County (1978 as amended) the property owner and Applicant, Washington Property Company, LLC, for itself and its successors assigns, (hereinafter referred to as the "Applicant") proffers that the development of the parcel under consideration identified on the Fairfax County Tax Maps as Tax Map Reference 48-4((1))12 (hereinafter referred to as the "Property"), will be in accordance with the following conditions, if and only if, the application, known as RZ 2006-PR-013 is granted rezoning the Property to the C-6 and HC Districts. The Proffered Development Conditions are as follows:

**DEVELOPMENT PLAN**

1. A. The Property shall be developed in substantial conformance with the GDP/SE Plat entitled "Lee Highway and Nutley Street," containing eight (8) sheets prepared by Walter L. Phillips, Incorporated, dated March 8, 2006 and revised through May 12, 2008.

B. The free standing building in the southern portion of the Property labeled "Building A" may be used as an eating establishment (not a "Sportsbar") Fast Food Restaurant or Quick Service Food Store. The following C-6 District Permitted Uses shall also be permitted:

- Business service and supply service establishment
- Garment cleaning establishment (drop-off and pick-up only – no on site processing)
- Office
- Personal service establishment
- Retail Sales establishment (excluding adult book stores; video/DVD stores primarily dealing with the sale, rental, or exhibition of adult oriented material; tattoo parlor/piercing establishments; psychic readers/fortune tellers; topless or nude dancing/stripping establishments; adult mini motion picture theaters, movie or "peep show" establishments)

C. The hours of operation of the uses in the freestanding building shall be limited to 6 a.m. to midnight (12:00 a.m.).

D. Deliveries and trash pickup shall be limited to the hours of 8 a.m. to 10 p.m. weekdays.

2. Pursuant to Paragraph 4 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP/SE Plat may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP/SE Plat without approval of a PCA, provided such changes are in substantial conformance with the GDP/SE Plat as determined by the Zoning Administrator, agents or assigns and neither increase the total gross square footage, decrease the amount of open space, nor decrease distance from buildings to the closest peripheral property line(s). Any such modifications shall not decrease the limits of clearing and grading and buffers shown on GDP/SE Plat.

## **TRANSPORTATION**

3. A. Prior to final site plan approval of the first site plan, or on demand by the Board of Supervisors, whichever occurs first, the Applicant shall dedicate and convey in fee simple, and at no cost, to the Board of Supervisors right of way along the Property's Lee Highway and Nutley Street frontages as shown on the GDP/SE Plat.

B. At time of site plan approval or upon demand, whichever occurs first, Applicant shall provide all right-of-way dedication and easements needed for completion of the Route 29 improvement plan per the Virginia Department of Transportation (VDOT) design plans.

C. Prior to the issuance of the first non residential use permit (Non-RUP), Applicant shall construct curb, gutter and pavement improvements along the Property's Route 29 frontage as shown on the GDP/SE Plat, and as approved by VDOT. In addition, the Applicant shall construct a 10 ft wide asphalt trail along the Property's Route 29 frontage as shown on the GDP/SE as a part of the required improvements, pursuant to the County's suggested design criteria.

4. Prior to the issuance of the Non-RUP, the Applicant shall construct road improvements along the Nutley Street frontage, as shown on the GDP/SE Plat as approved by VDOT.

5. A. Where the internal pedestrian system crosses the travelways of the parking lots, crosswalks shall be provided prior to the issuance of the first Non-RUP. These may be

either pavement treatments or pavement painting which clearly mark the pedestrian pathways. Pedestrian crossings shall be provided to the satisfaction of DPWES.

B. Prior to the issuance of the first Non-RUP, a crosswalk shall be provided across Nutley Street between the Property and the Pan Am Shopping Center as shown on the GDP/SE Plat subject to VDOT approval. Such crosswalk shall be constructed and shall be signed as a pedestrian crosswalk. The crosswalks may be constructed with pavement treatments or painting which clearly mark the crosswalk, as approved by the Department of Public Works and Environmental Services (DPWES). The exact location shall be determined by DPWES in consultation with the Fairfax County Department of Transportation (FCDOT) at time of site plan approval.

6. At time of Site Plan review, the Applicant shall complete a signal warrant study, and if warranted by VDOT, design and install a traffic signal on Nutley Street at the Property's main entrance as shown on the GDP/SE Plat.

7. The Applicant shall make sidewalk modifications as may be needed to serve/accommodate a future bus stop along the Property's Nutley Street frontage, as determined by DPWES. The Applicant shall provide necessary easements, at no cost, for the bus stop.

8. The Applicant recognizes that in the event that VDOT does not permit the Nutley Street retaining wall as shown on the GDP/SE Plat, and any subsequent redesign is not in substantial conformance with that shown on the GDP/SE Plat, that a Proffer Condition Amendment/Special Exception Amendment shall be required.

9. In order to prohibit blocking travel aisles adjacent to the Nutley Street entrance, the Applicant shall paint striping at the entrance as shown on the GDP, paint stop bars and install directional signage.

## **ENVIRONMENT**

10. A. All stormwater management facilities constructed on the Property and/or associated with the development shall be Best Management Practices (BMP) facilities, as determined by DPWES.

B. Prior to or during Site Plan review, the Applicant shall coordinate with DPWES to determine appropriate types and locations for Low Impact Development (LID)

techniques/BMP facilities, and shall implement such recommendations. Innovative BMP facilities shall be installed throughout the site to include but not be limited to underground vaults, and in filtration trenches, as approved by DPWES.

C. In order to protect the RPA during construction, Erosion and Sediment control measures designed in accordance with the Virginia Soil and Erosion Control Handbook, latest edition shall be implemented. The design of these measures shall be subject to the review and approval of DPWES and the Northern Virginia Soil and Water Conservation District; and, during construction the in place erosion controls shall be inspected daily. If damaged controls are found, then they are to be repaired immediately.

11. Prior to the issuance of the first Non-RUP, bicycle racks or other bicycle parking for at least 4 bikes shall be provided near the entrances of each of the 3 buildings.

## **TREE PRESERVATION**

12. A. The Applicant shall submit a Tree Preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 8 inches in diameter and greater, located up to 25 feet to outside of the limits of clearing and grading and of all trees 10 inches in diameter and greater, located up to 5 feet to inside of the limits of clearing and grading shown on the SE/GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SE/GDP and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan. No

tree preservation activities that would result in the movement of any buildings, travel aisles, SWM or retaining walls or extensive grading of the proposed SE/GDP shall be required.

B. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SE Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP/SE Plat, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management (UFM) and DPWES. A replanting plan shall be developed and implemented, subject to approval by UFM and for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. Applicant shall preserve trees in those areas designated on the GDP/SE Plat as buffers and those areas shown to be protected by the limits of clearing and grading.

C. All tree preservation-related work occurring in or adjacent to the limits of clearing and grading shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance within the limits of clearing and grading, including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject within the limits of clearing and grading to the review and approval of UFM. The use of equipment within the limits of clearing and grading will be limited to hand-operated equipment such as chainsaw, wheel barrows, rake and shovels. Any work that requires the use of equipment, such as skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.

D. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting with the UFM to be held prior to any clearing and grading. During the walk-through meeting, the Applicant's certified arborist or landscape architect shall walk such limits of clearing and grading with an UFM representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and

such adjustment shall be implemented; provided, however, that no adjustment shall be required that would affect the location of buildings, including a requirement for additional retaining walls in excess of two feet in height. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associate understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associate understory vegetation and soil conditions.

E. The limits of clearing and grading shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the phase I and II erosion sediment control sheets. All tree protection fencing shall be installed after the walk-through meeting described in Proffer 11.D above but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, the UFM, DPWES shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

F. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the respective public improvement/site plan submission. The details for these treatments shall be reviewed and approved by UFM, accomplished in a manner that protects affect and adjacent vegetation to be preserved, and may include, but not be limited to the following: (1) root pruning shall be done with a trencher or

vibratory plow to a depth of 18 inches; (2) root pruning shall take place prior to any clearing and grading; (3) root pruning shall be conducted with the supervision of a certified arborist; and (4) a UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

G. During any clearing or tree/vegetation removal in the areas adjacent to the tree preservation areas, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described in Par. D. above.

H. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the monetary value of all trees 8 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective public improvement/site plan(s). The monetary value of the trees shall be determined using the Trunk Formula Method contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, and shall be subject to review and approval by UFMD. The Location Factor of the Trunk Formula Method shall be based on projected post-development Contribution and Placements ratings. The Site rating component shall be equal to at least 80%. The monetary values for trees designated to be preserved and conserved as identified on the Tree Preservation Plan shall serve as a baseline sum in determining the amount of the Tree Bond, as below.

I. At the time of the respective public improvement/site plan approvals, the Applicant shall post a bond letter of credit or cash deposit (the "Tree Bond") as required by the Director, DPWES, payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a monetary value has been determined in accordance with paragraph H. above (the "Bonded Trees") that die or are ding due to unauthorized construction activities. The bond

letter of credit or cash deposit shall be equal to 50% of the monetary value of the Bonded Trees. At any time prior to final bond release, should an Bonded Trees die, be removed, or are determined to be dying due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size up to 4" in diameter, species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the construction bond, any amount remaining in the Tree Bode required by this proffer shall be returned/releases to the Applicant.

J. All of the subject property that is not subject to SE 2006-PR-005 shall be maintained as undisturbed open space subject to the necessary installation of utilities in the least disruptive manner and the removal of dead, dying or invasive vegetation.

## **LANDSCAPING**

13. A. As a part of the site plan submission for the project, a landscaping plan will be submitted to DPWES for review and approval. Such landscaping plans shall be in substantial conformance to the design shown on the GDP/SE Plat provided, however, that with the specific concurrence of Urban Forest Management, the Applicant may substitute vegetative materials and alter their location to accommodate engineering considerations. The Applicant shall maintain the landscaping in good condition and promptly replace dead landscaping with similar species.

B. All canopy trees shall be minimum 3" - 3.5" caliper at time of planting.

C. All evergreen trees shall be a minimum 8 feet tall at time of planting.

14. The paved areas will be designed and constructed in conformance with the concepts depicted on the GDP/SE Plat, provided, however, that, subject to the approval of DPWES, the specific distribution and location of landscaping, walkways, and focal seating areas may be modified to accommodate the design theme for the Property selected by the Applicant, so long as such modifications are in substantial conformance with the GDP/SE Plat, and are provided in the quality and quantity of that shown on the GDP/SE Plat.

15. At time of site plan submission, the Applicant shall submit the site plan's landscaping plan sheets to the Stonehurst Homeowners Association President for review and comment.

## **SIGNAGE AND OTHER DESIGN DETAILS**

16. All free-standing signs shall be monument. No pole signs (excepting directional signage on-site as permitted by the Zoning Ordinance) shall be permitted.

17. A. The architecture of the proposed buildings shall be in substantial conformance with the architectural elevations shown on the GDP/SE Plat. All of the facades of the proposed buildings shall have similar architectural treatment and materials.

B. The architectural materials of the proposed development shall consist of any of the following materials used singly or in combination with other materials: Brick masonry, architectural CMU, EIFS, architectural metals and glazing systems. The same colors and types of materials shall be used on all sides of all buildings. Architectural details to demonstrate conformity shall be provided on all final site plans.

C. All dumpsters and trash compactors will be fully screened pursuant to the requirements of the zoning ordinance.

18. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code or Virginia shall be placed on or off-site by the Applicant or at the Applicants' direction to assist in the initial sale or rental of space on the Property.

19. All on-site lighting shall comply with Article 14.

20. Rooftop equipment shall be screened where units would be visible from off-site.

21. Water Service. At the time of site plan review, the Applicant shall meet with Fairfax Water to mutually assess the economic and engineering implications of utilizing Fairfax Water service to serve the new development. If the Applicant and Fairfax Water determine that connecting to Fairfax Water can be accommodated in a manner that is reasonably feasible from both a financial and engineering perspective, then the Applicant shall serve the new development through Fairfax Water.

22. A black vinyl clad 48" chain link fence shall be installed on top of the retaining wall behind Proposed Buildings A and B.

[Signatures begin on the following page]

APPLICANT/AGENT FOR TITLE OWNER:  
Washington Property Company, LLC

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By: Charles K. Nulsen, III  
Title: President

TITLE OWNER:  
Nutley Street, LLC

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By: Washington Property Company, LLC  
Title: Manager  
By: Charles K. Nulsen, III  
Title: President

**PROPOSED DEVELOPMENT CONDITIONS****SE 2006-PR-005****May 29, 2008**

If it is the intent of the Board of Supervisors to approve SE 2006-PR-005 located at Tax Map 48-4 ((1))12pt., for the establishment of a drive-in financial institution and drive through pharmacy in accordance with Sect. 4-603 of the Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land associated with this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Generalized Development Plan/Special Exception Plat (GDP/SE Plat) associated with this application, as qualified by these development conditions.
3. A copy of this Special Exception and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the Generalized Development Plan/Special Exception Plat entitled "Lee Highway and Nutley Street" prepared by Walter L. Phillips, Incorporated, and dated March 8, 2006 as revised through May 12, 2008, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Part 4 of Section 9-004 of the Zoning Ordinance.
5. A maximum of one (1) drive through lane shall be allowed to serve the pharmacy use. The drive-through shall be used only for the drop-off of prescriptions and pick-up of pharmaceuticals. No general retail sales shall be permitted from the drive-through. A sign to this effect shall be posted prominently in the vicinity of the drive-through window.
6. A maximum of three (3) drive through lanes shall be allowed to serve the financial institution use. The hours of operation of the drive through lanes, excluding the ATM lane, shall be limited to Monday through Friday from 9:00 AM to 7:00 PM, Saturday from 9:00 AM to 4:00 PM, and Sunday from 11:00 AM to 3:00 PM.

7. The maximum number of employees for the financial institution shall be twelve (12) at any one time.
8. The drive aisle at the northernmost point of the parking lot, adjacent to the proposed financial institution site, shall be extended in order to provide additional area for the adequate turning around of vehicles in this area, subject to Fairfax County Department of Transportation (DOT) review and approval, prior to site plan approval. Any additional striping for this purpose shall also be provided, as determined by DOT.
9. Irrespective of that shown on the GDP/SE Plat, supplemental landscaping consisting of street trees and/or shrubs shall be provided as determined by UFM within the five (5) foot wide landscaping strip along the site's Nutley Street frontage located within the public right-of-way in a manner that does not impede sight distance. A landscape plan depicting this supplemental landscaping, including, but not limited to, the number and types of species, shall be submitted concurrent with the first and all subsequent site plan submissions and shall be subject to review and approval of UFM, DPWES. In addition, the landscape plan shall also depict: the number and sizes of trees and plantings consistent with that shown on the SE Plat as determined by UFM; any trees that are proposed to be saved within the Resource Protection Area (RPA) adjacent to the SE area; and the appropriate reforestation of any disturbed area of the RPA, as determined by UFM.
10. Stormwater Management and Best Management Practices Facilities in accordance with the Public Facilities Manual (PFM) shall be provided in substantial conformance with the GDP/SE Plat, unless waived by DPWES. Adequate outfall shall be provided for the site in substantial conformance with the GDP/SE Plat and the PFM.
11. Right-of-way at the intersection of Lee Highway and Nutley Street to accommodate the curb return and traffic control equipment as determined by Fairfax County Department of Transportation (FCDOT) shall be dedicated and conveyed in fee simple to the Board of Supervisors at the time of site plan review or upon demand of Fairfax County, whichever should first occur.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exceptions shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction of either the Drive-in Financial Institution or Drive-through Pharmacy has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the

SE 2006-PR-005

amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

**REZONING AFFIDAVIT**

DATE: March 17, 2008  
(enter date affidavit is notarized)

I, Keith C. Martin, Agent, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)       applicant  
                          applicant's authorized agent listed in Par. 1(a) below      90906c

in Application No.(s): RZ 2006-PR-013  
(enter County-assigned application number(s), e.g. RZ 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application, and, if any of the foregoing is a **TRUSTEE\***, each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE:** All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Washington Property Company, LLC Jonathan Meyers Charles K. Nulsen, III	4720 Montgomery Lane Bethesda, MD 20814	<b>Applicant/Agent for Title Owner</b> <b>Agents</b>
Nutley Street, LLC Jonathan Meyers Charles K. Nulsen, III	4720 Montgomery Lane Bethesda, MD 20814	<b>Title Owner</b> <b>Agents</b>
Sack Harris & Martin, P.C. Keith C. Martin	8270 Greensboro Drive, Suite 810 McLean, VA 22102	<b>Attorneys/Agents</b> <b>Agent</b>
Walter L. Phillips, Incorporated Jenifer L.T. Hornback, Megan Fisher Charles F. Dunlap	207 Park Avenue Falls Church, VA 22046	<b>Engineers/Agents</b> <b>Agents</b>

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Rezoning Attachment to Par. 1(a)" form.

\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

REZONING AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

909060

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number(s))

1(b). The following constitutes a listing\*\* of the SHAREHOLDERS of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders, **and if the corporation is an owner of the subject land, all of the OFFICERS and DIRECTORS of such corporation:**

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)  
Washington Property Company, LLC  
4720 Montgomery Lane  
Bethesda, MD 20814

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

CKN Investments, L.P.

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name & title, e.g. President, Vice President, Secretary, Treasurer, etc.)

Charles K. Nulsen, III - CEO, President  
Jonathan Meyers - Vice President

(check if applicable) ...  ... There is more corporation information and Par. 1(b) is continued on a "Rezoning Attachment 1(b)" form.

\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

**Rezoning Attachment to Par. 1(b)**

DATE: March 17, 2008  
(enter date affidavit is notarized)

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number (s))

90906c

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Walter L. Phillips, Incorporated  
207 Park Avenue  
Falls Church, Virginia 22046

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ~~There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.~~

**NAMES OF THE SHAREHOLDER:** (enter first name, middle initial, and last name)

Brian G. Baillargeon  
Jeffrey J. Stuchel

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

Brian G. Baillargeon - Executive Vice President  
Jeffrey J. Stuchel - President

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Sack Harris & Martin, P.C.  
8270 Greensboro Drive, Suite 810  
McLean, Virginia 22102

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

James M. Sack  
Robert A. Harris, IV  
Keith C. Martin

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

**Rezoning Attachment to Par. 1(b)**

DATE: March 17, 2008  
(enter date affidavit is notarized)

90906c

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number (s))

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

CKN Investments Management, LLC  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ~~There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.~~

**NAMES OF THE SHAREHOLDER:** (enter first name, middle initial, and last name)

JoAnn K. Nulsen - Manager/Member  
Charles K. Nulsen, III, Family Dynasty Trust

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Charles K. Nulsen, III, Family Dynasty Trust  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

Charles K. Nulsen, III - Settlor; JoAnn K. Nulsen - Family Trustee; James E. McNair - Independent Trustee

**Beneficiaries:**

Charles K. Nulsen, III or JoAnn K. Nulsen; Jordan I. Nulsen; Charles K. Nulsen, IV; Hailey E. Nulsen; M. Ramsey Nulsen

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

**Rezoning Attachment to Par. 1(b)**

DATE: March 17, 2008  
(enter date affidavit is notarized)

90906c

for Application No. (s): \_\_\_\_\_  
(enter County-assigned application number (s))

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Nutley Street, LLC  
4720 Montgomery Lane  
Bethesda, Maryland 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDER:** (enter first name, middle initial, and last name)

Washington Property Company, LLC, Sole Member/Manager

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

**NAMES OF OFFICERS & DIRECTORS:** (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

REZONING AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90906c

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number(s))

1(c). The following constitutes a listing\*\* of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state and zip code)

CKN Investments, L.P.  
4720 Montgomery Lane  
Bethesda, MD 20814

(check if applicable)  The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

Charles K. Nulsen, Managing General Partner and Limited Partner  
JoAnn K. Nulsen, Administrative General Partner  
CKN Investments Management, LLC - Limited Partner

(check if applicable)  There is more partnership information and Par. 1(c) is continued on a "Rezoning Attachment to Par. 1(c)" form.

\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

REZONING AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90906c

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number(s))

1(d). One of the following boxes must be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

None.

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Rezoning Attachment to Par. 2" form.

REZONING AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90906c

for Application No. (s): RZ 2006-PR-013  
(enter County-assigned application number(s))

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)

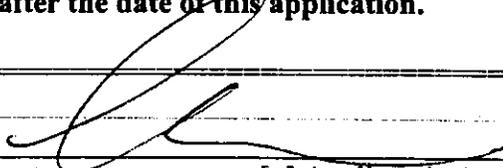
None.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Rezoning Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

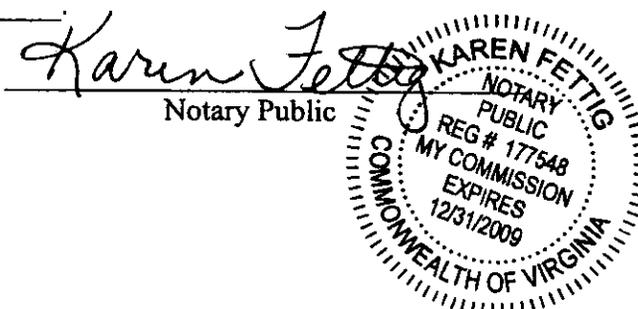


(check one) [ ] Applicant [x] Applicant's Authorized Agent

Keith C. Martin, Agent  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 17th day of March 2008, in the State/Comm. of Virginia, County/City of Fairfax

My commission expires: 12.31.09



**SPECIAL EXCEPTION AFFIDAVIT**

DATE: March 17, 2008  
(enter date affidavit is notarized)

I, Keith C. Martin, Agent, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)       applicant  
                          applicant's authorized agent listed in Par. 1(a) below      90905c

in Application No.(s): SE 2006-PR-005  
(enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application, and, if any of the foregoing is a **TRUSTEE\***, each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE: All relationships to the application listed above in BOLD print are to be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)**

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Washington Property Company, LLC Jonathan Meyers Charles K. Nuisen, III	4720 Montgomery Lane Bethesda, MD 20814	<b>Applicant/Agent for Title Owner</b> <b>Agents</b>
Sack Harris & Martin, P.C. Keith C. Martin	8270 Greensboro Drive, Suite 810 McLean, VA 22102	<b>Attorneys/Agents</b> <b>Agent</b>
Walter L. Phillips, Incorporated Jenifer L.T. Hornback, Megan Fisher, Charles F. Dunlap	207 Park Avenue Falls Church, VA 22046	<b>Engineers/Agents</b> <b>Agents</b>
Nutley Street, LLC Jonathan Meyers Charles K. Nuisen, III	4720 Montgomery Lane Bethesda, MD 20814	<b>Title Owner</b> <b>Agents</b>

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

SPECIAL EXCEPTION AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number(s))

1(b). The following constitutes a listing\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

**NAME & ADDRESS OF CORPORATION:** (enter complete name and number, street, city, state, and zip code) Washington Property Company, LLC  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial and last name)

CKN Investments, L.P.

(check if applicable)  There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

**Special Exception Attachment to Par. 1(b)**

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number (s))

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)  
Walter L. Phillips, Incorporated  
207 Park Avenue  
Falls Church, Virginia 22046

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

Brian G. Baillargeon  
Jeffrey J. Stuchel

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)  
Sack Harris & Martin, P.C.  
8270 Greensboro Drive, Suite 810  
McLean, Virginia 22102

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

James M. Sack  
Robert A. Harris, IV  
Keith C. Martin

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.

Special Exception Attachment to Par. 1(b)

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number (s))

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

CKN Investments Management, LLC  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

JoAnn K. Nulsen - Manager/Member  
Charles K. Nulsen, III, Family Dynasty  
Trust

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Charles K. Nulsen, III, Family Dynasty Trust  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.

**Special Exception Attachment to Par. 1(b)**

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number (s))

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

Nutley Street, LLC  
4720 Montgomery Lane  
Bethesda, MD 20814

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

Washington Property Company, LLC,  
Sole Member/Manager

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF THE SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable)  There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number(s))

1(c). The following constitutes a listing\*\* of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, and number, street, city, state, and zip code)  
CKN Investments, L.P.  
4720 Montgomery Lane  
Bethesda, MD 20814

(check if applicable)  The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

Charles K. Nulsen, Managing General Partner and Limited Partner

JoAnn K. Nulsen, Administrative General Partner

CKN Investments Management, LLC - Limited Partner

(check if applicable)  There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: March 17, 2008  
(enter date affidavit is notarized)

90905c

for Application No. (s): SE 2006-PR-005  
(enter County-assigned application number(s))

1(d). One of the following boxes must be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

None.

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

**SPECIAL EXCEPTION AFFIDAVIT**

DATE: March 17, 2008  
(enter date affidavit is notarized)

*20905 c*

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)  
None.

**NOTE:** Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

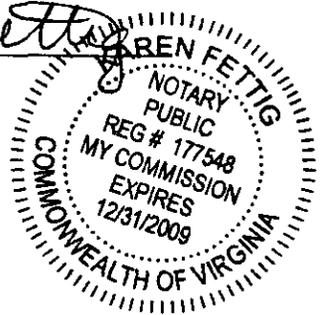
(check one) [ ] Applicant [x] Applicant's Authorized Agent

Keith C. Martin, Agent  
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 17th day of March 2008, in the State/Comm. of Virginia, County/City of Fairfax

*Karen Fetting*  
Notary Public

My commission expires: 12.31.09



**SACK HARRIS & MARTIN, P.C.**

ATTORNEYS AT LAW

SUITE 810  
8270 GREENSBORO DRIVE  
MCLEAN, VIRGINIA 22102  
TELEPHONE (703) 883-0102  
FACSIMILE (703) 883-0108

March 20, 2008

Ms. Regina Coyle  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 801  
Fairfax, Virginia 22305

Re:    Reactivation of Rezoning Application RZ 2006-PR-013 and Special Exception  
Application SE 2006-PR-005 for a Drive-in Bank and a Drive-through Pharmacy  
on Property Identified as Tax Map 48-4((1)) Pt. 12

Dear Ms. Coyle:

The following is submitted as an amended Statement of Justification for the above referenced Rezoning and Special Exception Applications. The Applicant and Title Owner, Washington Property Company, LLC proposes to rezone approximately 13.5151 acres of the C-3, C-8 and C-6 zoned portion of Tax Map 48-4((1))12 to the C-6 District in order to develop a coordinated retail project at the intersection of Lee Highway and Nutley Street. The Special Exception Plat/Generalized Development Plan (SEP/GDP) shows a total of 21,400 square feet of gross floor area divided among three buildings. The central building consists of a 14,600 square foot Pharmacy with a drive-in window (Category 5 Special Exception Use). A free-standing 3800 square foot Drive-in bank (Category 5 Special Exception Use) sits closest to the intersection of Lee Highway and Nutley Street. One freestanding building is located at the opposite end of the development.

It is submitted that the proposed development meets all of the requirements of the zoning ordinance for C-6 District zoned properties. The maximum Floor Area Ratio (FAR) proposed is 0.13. The SEP/GDP shows approximately thirty-five percent (35%) open space. There are 108 parking spaces (\_\_\_ required) to be located in surface parking areas. The maximum building height is 35 feet. There are no waivers proposed with the applications.

It is further submitted that the Rezoning and Special Exception Applications are in substantial conformance with the recommendations of the Comprehensive Plan. The Comprehensive Plan Map shows the subject property as recommended for "retail". The SEP/GDP is strictly adhering to the limits of the Resource Protection Area boundaries of the County's Chesapeake Bay Protection Ordinance maps.

**SACK HARRIS & MARTIN, P.C.**

Ms. Regina Coyle  
March 20, 2008  
Page 2 of 2

The following is a description of the proposed Special Exceptions Drive-in Bank use:

- A. Type of Operation: Drive-in Bank Category 5  
Drive-through Pharmacy Category 5
  - B. Hours of Operation: Drive-in window Monday-Friday 9 a.m. to 7 p.m., Saturday 9 a.m. to 4 p.m., Sunday 11 a.m. to 3 p.m.
  - C. Estimated number of patrons (approximately on a daily basis): Bank 200, Pharmacy 20
  - D. Proposed Number of Employees: Maximum of 12 on site at any one time.
  - E. Estimate of Traffic Impact: 44 trips during a.m. peak and 190 trips during p.m. peak.
- 
- F. Vicinity to be served by the use: Five mile radius of the subject property.
  - G. Description of Building Façade: Predominantly brick and glass.
  - H. There are no known hazardous substances to be treated, disposed or stored on-site.
  - I. The proposed use conforms to the provisions of all applicable regulations. There are no waivers sought.

If you have any questions or require further information, please contact me.

Very truly yours,

SACK HARRIS & MARTIN, P.C.



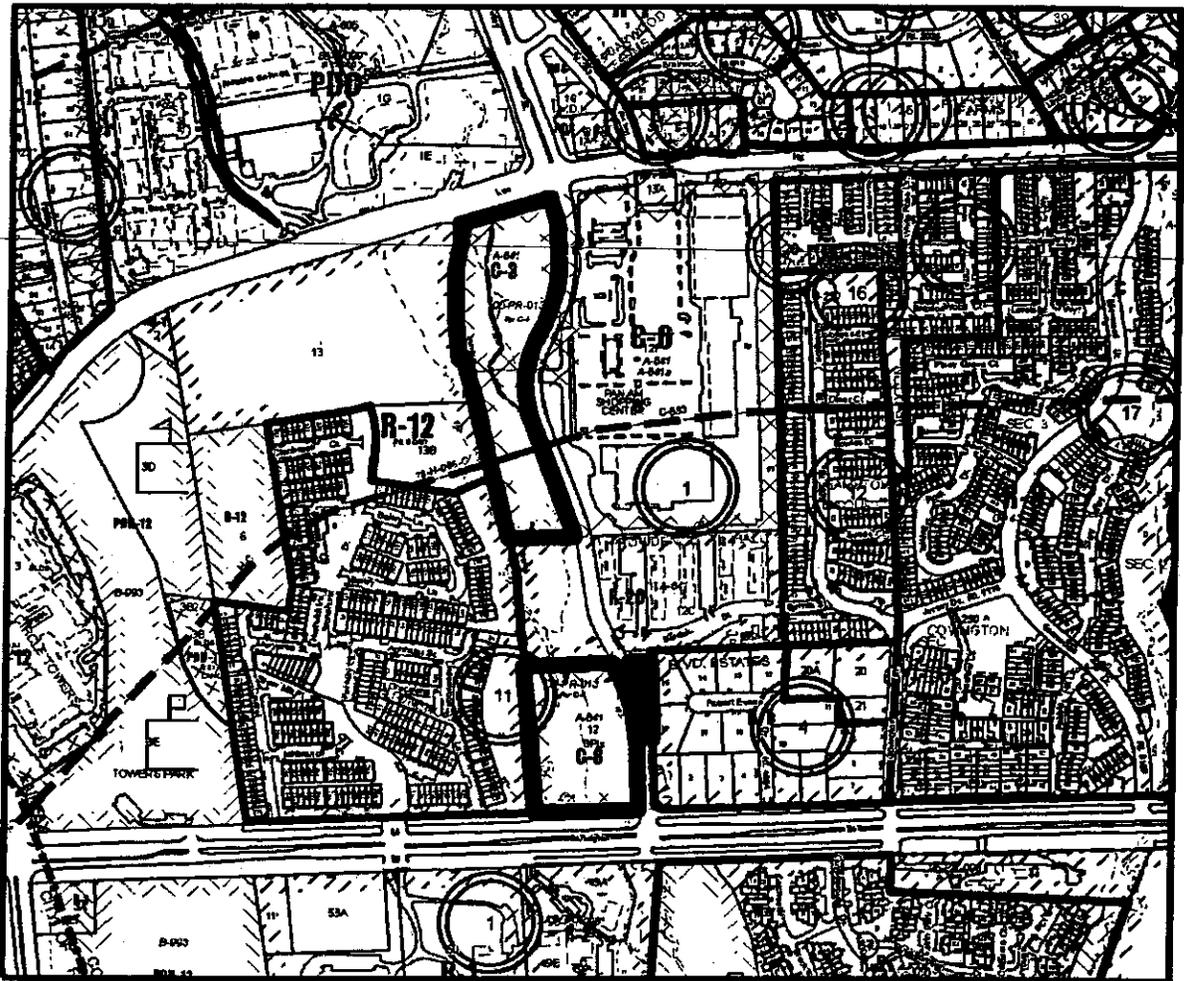
Keith C. Martin

cc: Charles K. Nulsen, III  
Jonathon Meyers  
Jennifer Hornback  
Sup. Linda Q. Smyth

# APPEAL APPLICATION

A 2007-PR-013

**NUTLEY STREET, LLC, A 2007-PR-013** Appl. under sect(s). 18-301 of the Zoning Ordinance. Appeal of a determination that the addition of soil in the floodplain on property located at Tax Map 48-4 ((1)) 12 occurred without the requisite approvals in violation of Zoning Ordinance provisions. Located at 3050 Nutley St. on approx. 13.52 ac. of land zoned C-3, C-6, C-8 and H-C. Providence District. Tax Map 48-4 ((1)) 12.





# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

July 27, 2007

Keith C. Martin, Agent  
Sack Harris & Martin  
8270 Greensboro Drive, Suite 810  
McLean, Virginia 22102

Re: Appeal Application A 2007-PR-013  
Nutley Street LLC

Dear Mr. Martin:

At its July 24, 2007 meeting, the Board of Zoning Appeals took action to **OVERTURN** the determination of the Zoning Administrator for the above-referenced appeal application.

If you have questions, please contact Jayne M. Collins, Staff Coordinator, at 703-324-1314.

Sincerely,

Paula A. McFarland, Deputy Clerk  
Board of Zoning Appeals

cc: Linda Q. Smyth, Supervisor  
Providence District

Mavis Stanfield, Deputy Zoning Administrator for Appeals  
Zoning Administration Division

Jayne M. Collins, Staff Coordinator  
Zoning Administration Division

Diane Johnson-Quinn, Deputy Zoning Administrator  
Zoning Permit Review Branch

Susan Epstein, Property Maintenance, Zoning Enforcement Inspector  
Zoning Enforcement Branch, ZAD

Department of Planning and Zoning  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703 324-1290  
FAX 703 324-1207  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

August 7, 2007

Eileen McLane, Zoning Administrator  
Zoning Administration Division  
Department of Planning and Zoning  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035-5509

Re: Request for Reconsideration for Nutley Street, L.L.C.  
A 2007-PR-013

Dear Ms. McLane:

At its July 31, 2007 meeting, the Board of Zoning Appeals took action to **APPROVE** the Request for Reconsideration for the above-referenced application. The public hearing has been scheduled for September 18, 2007, at 9:30 a.m.

If you have any questions, please contact Jayne Collins, Staff Coordinator, at 703-324-1314.

Sincerely,

Kathleen A. Knoth  
Clerk to the Board of Zoning Appeals

CC: Linda Q. Smyth, Supervisor  
Providence District

Mavis Stanfield, Deputy Zoning Administrator for Appeals  
Zoning Administration Division

Jayne M. Collins, Staff Coordinator  
Zoning Administration Division

Diane Johnson-Quinn, Deputy Zoning Administrator  
Zoning Permit Review Branch

Susan Epstein, Property Maintenance, Zoning Enforcement Inspector  
Zoning Enforcement Branch

Agent for the Appellant:  
Keith C. Martin  
Sack Harris & Martin  
8270 Greensboro Drive, Suite 810  
McLean, Virginia 22102

Department of Planning and Zoning  
12055 Government Center Parkway, Suite 801  
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# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 25, 2007

Keith C. Martin, Agent  
Sack Harris & Martin  
8270 Greensboro Drive, Suite 810  
McLean, Virginia 22102

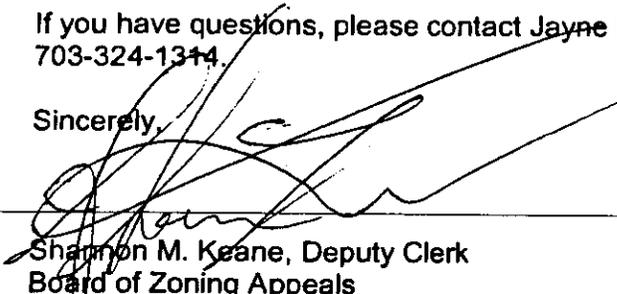
Re: Appeal Application A 2007-PR-013  
Nutley Street LLC

Dear Mr. Martin:

At its September 18, 2007 meeting, the Board of Zoning Appeals took action to **OVERTURN** the determination of the Zoning Administrator for the above-referenced appeal application.

If you have questions, please contact Jayne M. Collins, Staff Coordinator, at 703-324-1314.

Sincerely,



---

Shannon M. Keane, Deputy Clerk  
Board of Zoning Appeals

cc: Linda Q. Smyth, Supervisor  
Providence District

Mavis Stanfield, Deputy Zoning Administrator for Appeals  
Zoning Administration Division

Jayne M. Collins, Staff Coordinator  
Zoning Administration Division

Diane Johnson-Quinn, Deputy Zoning Administrator  
Zoning Permit Review Branch

Susan Epstein  
Zoning Enforcement Branch

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# County of Fairfax, Virginia

## MEMORANDUM

DATE: April 23, 2008

**TO:** Regina Coyle, Director  
Zoning Evaluation Division, DPZ

**FROM:** Pamela G. Nee, Chief *P&H*  
Environment and Development Review Branch, DPZ

**SUBJECT:** LAND USE & ENVIRONMENTAL ASSESSMENT for: **RZ 2006-PR-013**  
**SE 2006-PR-005**  
Washington Properties – Lee Highway & Nutley Street

This memorandum, prepared by John R. Bell, includes citations from the Comprehensive Plan that list and explain land use and environmental policies for this property. The citations are followed by a discussion of concerns, including a description of potential impacts that may result from the proposed development as depicted on the development plan dated June 22, 2006 as revised through March 19, 2008 and proffers dated March 20, 2008. The extent, to which the proposed use, intensity and development plan are consistent with the land use and environmental guidance contained in the Comprehensive Plan, is noted. Possible solutions to remedy identified land use issues and environmental impacts are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

### DESCRIPTION OF THE APPLICATION

The subject area is currently zoned C-3, but is part of a larger parcel which is zoned C-3, C-6 and C-8. The remainder of the property is located within a Resource Protection Area as defined by the Chesapeake Bay Preservation Ordinance, Fairfax County Code, Chapter 118. The applicants are seeking to rezone from the existing C-3 to C-6 in order to permit the development of retail and office uses with a total of approximately 21,400 square feet at a floor area ratio (FAR) of 0.13. The proposed uses include a free-standing drive through bank, a drive-through pharmacy, and a free-standing restaurant with surface and with a total of 108 spaces.

Department of Planning and Zoning  
Planning Division  
12055 Government Center Parkway, Suite 730  
Fairfax, Virginia 22035-5509  
Phone 703-324-1380  
Fax 703-324-3056  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

## **LOCATION AND CHARACTER OF THE AREA**

The application property is situated at the southwest corner of the intersection of Lee Highway and Nutley Street approximately one-half mile from the Vienna/Fairfax-GMU Metro Station. The subject property is currently undeveloped with the overwhelming majority of its area being comprised of Resource Protection Area defined primarily by the extent of the 100-year floodplain of Hunters Branch. The surrounding use include a C-6 zoned retail center located opposite the subject property on Nutley Street, R-20 zoned garden apartments to the south, R-12 zoned townhouse development to the southwest, a large, undeveloped R-12 parcel to the west with Planned Development Commercial and C-8 zoned commercial property to the north and northeast on the opposite side of Lee Highway.

## **COMPREHENSIVE PLAN CITATIONS:**

### **Land Use Citations:**

In the Fairfax County Comprehensive Plan, 2007 Edition, Area II, Vienna Planning District, as amended through August 6, 2007, VI Lee Community Planning Sector, page 37, the Plan states:

“Infill development in this planning sector should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14.”

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Land Use – Appendix, as amended through December 3, 2007, page 19, the Plan states:

### **“APPENDIX 5**

#### **GUIDELINES FOR DRIVE-THRU WINDOWS AND OTHER DRIVE-THRU FACILITIES**

Drive-thru windows for commercial establishments and other drive-thru facilities have the potential to cause serious on-site and off-site traffic circulation problems. To address these potential problems, drive-thru windows and other drive-thru facilities should be approved only if the size and configuration of the lot are adequate to achieve a safe drive-thru facility, parking circulation and pedestrian system. All activity generated by the use must be accommodated on the site. Noise, glare and other nuisance aspects related to drive-thru facilities must not adversely affect adjacent properties.”

### **Environmental Citations:**

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008 on page 4 through 15, the Plan states:

**Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.**

Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County's best management practice (BMP) requirements. . . .

Policy d. Preserve the integrity and the scenic and recreational value of stream valley EQCs when locating and designing storm water detention and BMP facilities. In general, such facilities should not be provided within stream valley EQCs unless they are designed to provide regional benefit or unless the EQCs have been significantly degraded. When facilities within the EQC are appropriate, encourage the construction of facilities that minimize clearing and grading, such as embankment-only ponds, or facilities that are otherwise designed to maximize pollutant removal while protecting, enhancing, and/or restoring the ecological integrity of the EQC. . . .

Policy k. For new development and redevelopment, apply better site design and low impact development techniques such as those described below, and pursue commitments to reduce stormwater runoff volumes and peak flows, to increase groundwater recharge, and to increase preservation of undisturbed areas. In order to minimize the impacts that new development and redevelopment projects may have on the County's streams, some or all of the following practices should be considered where not in conflict with land use compatibility objectives:

- Minimize the amount of impervious surface created.
- Site buildings to minimize impervious cover associated with driveways and parking areas and to encourage tree preservation.
- Where feasible, convey drainage from impervious areas into pervious areas.
- Encourage cluster development when designed to maximize protection of ecologically valuable land.
- Encourage fulfillment of tree cover requirements through tree preservation instead of replanting where existing tree cover permits. Commit to tree preservation thresholds that exceed the minimum Zoning Ordinance requirements.
- Where appropriate, use protective easements in areas outside of private residential lots as a mechanism to protect wooded areas and steep slopes.

- Encourage the use of open ditch road sections and minimize subdivision street lengths, widths, use of curb and gutter sections, and overall impervious cover within cul-de-sacs, consistent with County and State requirements.
- Encourage the use of innovative BMPs and infiltration techniques of stormwater management where site conditions are appropriate, if consistent with County requirements.
- Apply nonstructural best management practices and bioengineering practices where site conditions are appropriate, if consistent with County requirements.
- Where feasible and appropriate, encourage the use of pervious parking surfaces in low-use parking areas.
- Maximize the use of infiltration landscaping within streetscapes consistent with County and State requirements.

---

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations.

Proposals that include the use or storage of hazardous materials should provide adequate containment facilities, monitoring, and spill prevention strategies to protect surface and groundwater resources consistent with State regulations.

Programs to improve water quality in the Potomac River/Estuary, and Chesapeake Bay will continue to have significant impacts on planning and development in Fairfax County. There is abundant evidence that water quality and the marine environment in the Bay are deteriorating, and that this deterioration is the result of land use activities throughout the watershed.

In order to protect the Chesapeake Bay and other waters of Virginia from degradation resulting from runoff pollution, the Commonwealth has enacted regulations requiring localities within Tidewater Virginia (including Fairfax County) to designate "Chesapeake Bay Preservation Areas". Within which land uses are either restricted or water quality measures must be provided. Fairfax County has adopted a Chesapeake Bay Preservation Ordinance pursuant to these regulations.

The more restrictive type of Chesapeake Bay Preservation Area is known as the "Resource Protection Area (RPA)." With a few exceptions (e.g. water wells, recreation, infrastructure

improvements, "water dependent" activities, and redevelopment), new development is prohibited in these areas. In Fairfax County, RPAs include the following features:

- water bodies with perennial flow;
- tidal wetlands;
- tidal shores;
- nontidal wetlands contiguous with and connected by surface flow to tidal wetlands or water bodies with perennial flow;
- a buffer area not less than 100 feet in width around the above features; and
- as part of the buffer area, any land within a major floodplain.

The other, less sensitive category of land in the Preservation Areas is called the "Resource Management Area (RMA)." Development is permitted in RMAs as long as it meets water quality goals and performance criteria for these areas. These goals and criteria include stormwater management standards, maintenance requirements and reserve capacity for on-site sewage disposal facilities, erosion and sediment control requirements, demonstration of attainment of wetlands permits, and conservation plans for agricultural activities. In Fairfax County, RMAs include any area that is not designated as an RPA. . . .

---

**Objective 3:** ~~Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.~~

Policy a. Ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance, as applied to Chesapeake Bay Preservation Areas adopted by the Board of Supervisors . . . .

**Objective 9:** Identify, protect and enhance an integrated network of ecologically valuable land and surface waters for present and future residents of Fairfax County.

Policy a: For ecological resource conservation, identify, protect and restore an Environmental Quality Corridor system (EQC). . . Lands may be included within the EQC system if they can achieve any of the following purposes:

- Habitat Quality: The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest.
- "Connectedness": This segment of open space could become a part of a corridor to facilitate the movement of wildlife.
- Aesthetics: This land could become part of a green belt separating land uses, providing passive recreational opportunities to people.

- Pollution Reduction Capabilities: Preservation of this land would result in significant reductions to non-point source water pollution, and/or, micro climate control, and/or reductions in noise.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements.

- All 100 year flood plains as defined by the Zoning Ordinance;
- All areas of 15% or greater slopes adjacent to the flood plain, or if no flood plain is present, 15% or greater slopes that begin within 50 feet of the stream channel;
- All wetlands connected to the stream valleys; and
- All the land within a corridor defined by a boundary line which is 50 feet plus 4 additional feet for each % slope measured perpendicular to the stream bank. The % slope used in the calculation will be the average slope measured within 110 feet of a stream channel or, if a flood plain is present, between the flood plain boundary and a point fifty feet up slope from the flood plain. This measurement should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit habitat quality, connectedness, aesthetics, or pollution reduction as described above. In addition, some intrusions that serve a public purpose such as unavoidable public infrastructure easements and rights of way are appropriate. Such intrusions should be minimized and occur perpendicular to the corridor's alignment, if practical.

Preservation should be achieved through dedication to the Fairfax County Park Authority, if such dedication is in the public interest. Otherwise, EQC land should remain in private ownership in separate undeveloped lots with appropriate commitments for preservation. The use of protective easements as a means of preservation should be considered.”

#### **COMPREHENSIVE PLAN MAP:**

Retail and other uses with Public Park in the stream valley area.

## **LAND USE ANALYSIS**

The Comprehensive Plan map shows that the subject property is planned mostly for retail and other uses with the stream valley area planned for public park. The Comprehensive Plan text does not provide any site-specific guidance for the subject property. However, the Comprehensive Plan text provides guidelines on drive-thru facilities (Appendix 5 of the Land Use section of the Policy Plan) and clustering of automobile-oriented commercial uses (Appendix 7 of the Land Use section of the Policy Plan) which are applicable to the evaluation of the proposed bank with 3 drive-thru windows and pharmacy with one drive-thru.

The application had previously proposed four free-standing buildings with multiple uses: 3,800 square foot bank with three drive-thru windows; 14,600 square foot pharmacy with one-drive thru; 3,000 square foot retail/restaurant use; and 2,400 square foot retail/restaurant use. The application had raised significant land use issues with respect to use, intensity and design. The previous development plans depicted two-drive through uses on the northern portion of the site and two free-standing retail/restaurant uses on the southern portion of the site. The combination and intensity of these proposed uses and anticipated level of activity was the source of significant concern. Staff had repeatedly noted that the previously proposed development as being far too intense given the existing constraints and limitations of this property. Two automobile-oriented uses on a property located at this intersection create a level of development intensity which might be supported at this location. However, the two additional previously proposed retail/restaurant buildings and associated parking at this location seemed to increase the intensity of the proposed uses in a manner which might not be supported by the existing or proposed infrastructure. Staff had originally indicated that the removal of the proposed free-standing restaurant/retail uses would reduce the overall intensity of the proposed development and could help make this a more functional, acceptable and better designed proposal. Staff's primary concern was that these two undetermined uses could result in a level of intensity which could not be fully supported at this location given the constraints of the site and limited parking capacity. The applicants have subsequently agreed to limit the uses which could be permitted at this location by eliminating some uses through the latest proffers.

Based on the foregoing discussion, staff concludes that the development, as currently proposed, is in conformance with the land use recommendation of the Comprehensive Plan.

## **ENVIRONMENTAL ANALYSIS:**

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed land use. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the County's remaining natural amenities.

### **Water Quality**

**Issue:**

The subject property is located within the Accotink Creek watershed with a portion of Hunters Branch flowing through a portion of the property's western boundary. The applicants have indicated that runoff from the proposed development will be detained in an underground detention vault located on the western side of the property with best management practice (BMP) requirement to be met through the use of two underground storm filters and the application of porous pavement over much of the western half of the developed portion of the site.

**Resolution:**

Proposed measures to meet water quality and quantity control measures appear to be adequate at this stage. Any final determination regarding stormwater management and BMPs for the proposed development will be made by staff in the Department of Public Works and Environmental Services (DPWES).

---

### **Resource Protection Area(RPA)/Environmental Quality Corridor (EQC)**

**Issue:**

As previously noted, a portion of the subject property is shown as Resource Protection Area (RPA) on the County's Chesapeake Bay Preservation Area Maps. Portions of the proposed development are shown to be within the existing RPA boundary. The applicants have indicated that they had prepared a boundary delineation study which would ultimately define the RPA on the proposed development site as a smaller area, thereby allowing the proposed development. It seems that the primary basis for a smaller RPA in this area would be a reduced 100-year floodplain area. Staff feels that an EQC boundary would be consistent with the RPA for the proposed development.

**Resolution:**

The applicants have completed an RPA study which was recently approved by the Department of Public Works and Environmental Services. The approved study confirms the location of the RPA as shown on the proposed development plans. As previously noted, staff feels that the EQC boundary should be noted as being consistent with the RPA as it is now delineated. While this area appears to comply with the most recent version of the RPA for the subject property, the proximity of a retaining wall so close to the limits of the RPA/EQC boundary raises concerns regarding realistic limits of clearing and grading for this area. Typically, the limits of clearing and grading for areas adjacent to retaining walls are equal to or slightly greater than the height of the wall. As such, the applicants may need to modify this area of the

*Regina Coyle*  
*RZ 2006-PR-013*  
*SE 2006-PR-005*  
*Page 9*

development plan to reflect a realistic limit of clearing and grading or be prepared to demonstrate that the retaining wall can be installed without violating the limits of the RPA/EQC in this area. Staff feels that this element of the proposed development has been satisfactorily addressed.

PGN:JRB

### **Additional Applicable Comprehensive Plan Guidance**

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Land Use – Appendix, as amended through December 3, 2007, page 19, the Plan states:

#### **“APPENDIX 7**

#### **GUIDELINES FOR CLUSTERING OF AUTOMOBILE-ORIENTED COMMERCIAL USES**

Consideration should be given during the development review process to encourage the clustering of automobile-oriented commercial uses. By allowing such clusters, the following benefits may accrue: higher quality design; increased landscaping and buffering; increased vehicular safety; and increased energy efficiency.

Uses that should be considered for clustering include, but are not limited to, automobile sales and service, banks, convenience stores and fast food restaurants. The following design guidelines should be considered with regard to commercial clusters:

1. Clustered commercial uses should be developed as an integrated complex of buildings and supporting structures. There should be overall compatibility in terms of architectural character, design detail, materials, and color within a cluster.
2. Vehicular access should be consolidated in order to improve vehicular safety and traffic flow. A maximum of two ingress/egress points should be allowed where there is frontage on only one street. Where there is frontage on more than one street, a maximum of three access points may be considered. Vehicular access to physically separate structures within the complex shall be by means of interparcel connections and/or service drives.
3. To allow for a more efficient clustering of uses, shared buildings or structures should be encouraged.
4. A reduction in minimum lot size should be considered in conjunction with cluster design for automobile-oriented commercial uses.
5. Sharing of parking between uses should be encouraged through the consideration of reductions in the required number of spaces per use.
6. To eliminate visual clutter along street frontages, all street-oriented pole signs should be consolidated onto one pole sign per street frontage which can identify all uses within the cluster.
7. The identification of uses within each structure should be limited to one sign per use on the exterior of the structure.
8. On-site service signs indicating entrances, deliveries, parking, etc. should be alike in size, material, color, and finish.

9. To reduce the visual impact of service areas and trash collection areas, they should be consolidated where possible. These areas should be visually screened from public roads, shared access drives, parking, and adjacent parcels. Such screening can be achieved using plant materials, walls or fencing which is compatible with the architectural style and materials used in the cluster, and by the use of berms.
10. Drive-through windows should be discouraged in these clusters, unless the windows can be consolidated.”



# County of Fairfax, Virginia

## MEMORANDUM

APR 10 2008

**DATE:**

**TO:** St. Clair Williams, Staff Coordinator  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Qayyum Khan, Chief Stormwater Engineer *QK*  
Stormwater and Geotechnical Section, Environmental and Site Review Division  
Department of Public Works and Environmental Services

**SUBJECT:** Rezoning Application RZ 2006-PR-013, concurrent with Special Exception Application SE 2006-PR-005, Lee Highway and Nutley Street, Special Exception/Generalized Development Plan dated March 19, 2008 (Plan), LDS Project #1228-ZONA-003-1Tax Map #048-4-01-0012 pt. (Site), Providence District

We have reviewed the referenced submission and offer the following comments related to stormwater management:

Chesapeake Bay Preservation Ordinance (CBPO)

A portion of the Resource Protection Area (RPA) is designated on this Site. However, the application indicates that the RPA portion is not part of the application. The Plan shows encroachment into the RPA to construct two stormwater outfalls. A Water Quality Impact Assessment will be required to be submitted at the time of site plan review.

The applicant is required to incorporate best management practices (BMPs) into the development plan which would achieve a 40% phosphorus removal efficiency, as the proposed site improvements are considered to be 'development' under the CBPO. The applicant indicates that BMP requirements will be met by the installation of two StormFilter systems. For the BMP facilities to function properly, staff recommends that the discharge points for the storm pipes be located above the 100-yr floodplain elevation. The use of infiltration practices behind a retaining wall to meet water quality control requirements is not recommended.

Floodplain

There is a regulated floodplain on the Site. However, the application indicates that the floodplain portion is not part of the application. A floodplain study has been approved and the boundary is clearly shown on the Plan.

Downstream Drainage Complaints

There are downstream erosion problems identified along Hunter's Branch of Accotink Creek, the outfall for this Site.

Stormwater Detention

The applicant indicates that an underground detention vault to be located behind the proposed pharmacy building will be constructed. It appears that this vault will be combined with the proposed BMP facilities. It is noted that detention storage below the floodplain level will not be accepted to meet the detention requirements.

Site Outfall

The applicant proposes a proportional improvement to the outfall by one-year detention on site or by employing shear stress analysis with the future plans. Details will be required at the time of site plan review.

Department of Public Works and Environmental Services  
Land Development Services, Environmental and Site Review Division  
12055 Government Center Parkway, Suite 535  
Fairfax, Virginia 22035-5503  
Phone 703-324-1720 • TTY 703-324-1877 • FAX 703-324-8359



St. Clair Williams, Staff Coordinator  
Rezoning Application RZ 2006-PR-013  
Page 2 of 2

Please contact me at 4-1720 if you have any questions or require further clarification.

cc: Craig Carinci, Director, Stormwater Planning Division, DPWES  
Zoning Application File

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